

Exhibit 2

REVISED JURY INSTRUCTION NO. 22

OFFENSE SPECIFIC DEFINITION – “PURPOSE OF PRODUCING”

“Purpose of producing” means that Defendant must engage in activity with the specific intent to produce a visual depiction of that conduct. The facts must support the conclusion that the defendant engaged in conduct in order to produce a visual depiction.¹

Put most simply, the statute requires the government to prove that creating a visual depiction was “the purpose” of an accused for engaging in sexual conduct, not merely “a purpose” that may happen to arise at the same instant as the conduct.²

When deciding whether the Government has proven that Defendant acted with the requisite culpable purpose, you may consider all the evidence concerning Defendant’s conduct.

AUTHORITY: United States v. McCauley, No. 19-4318, 2020 WL 7414398, at *3 (4th Cir. Dec. 18, 2020); United States v. Palomino-Coronado, 805 F.3d 127, 130 (4th Cir. 2015); United States v. Sirois, 87 F.3d 34, 39 (2d Cir. 1996); United States v. Miller, 148 F.3d 207, 212–13 (2d Cir. 1998).

¹ United States v. Palomino-Coronado, 805 F.3d 127, 130 (4th Cir. 2015).

² United States v. McCauley, No. 19-4318, 2020 WL 7414398, at *3 (4th Cir. Dec. 18, 2020).

REVISED JURY INSTRUCTION NO. 22

OFFENSE SPECIFIC DEFINITION – “PURPOSE OF PRODUCING”

“Purpose of producing” means that Defendant must engage in activity with the specific intent to produce a visual depiction of that conduct. The facts must support the conclusion that the defendant engaged in conduct in order to produce a visual depiction.

Put most simply, the statute requires the government to prove that creating a visual depiction was “the purpose” of an accused for engaging in sexual conduct, not merely “a purpose” that may happen to arise at the same instant as the conduct.

When deciding whether the Government has proven that Defendant acted with the requisite culpable purpose, you may consider all the evidence concerning Defendant’s conduct.